

Nothing to See Here: The CJEU's Decision in Case C-232/25 Idziski



Earlier today, the Court of Justice rendered its decision in Case C-232/25 *Idziski*, essentially confirming its previous case law, combined with a restrictive reading of its infamous decision in Joint Cases C-509/09 and C-161/10 *eDate*.

The facts of the case (which was given the entirely fictitious name *Idziski*) are eerily similar to those of the Court's 2021 decision in Case C-800/19 *Mittelbayrischer Verlag*. Just like in that earlier case, they involved a claim by Polish claimants against a German media outlet regarding the correction of, and damages for, the publication of content that allegedly violated their personality rights, including their national dignity. Only two elements of the facts were different: first, the content complained of was broadcasted on television, in addition to being published online; second, the claimants were (1) a private person who was part of a Polish military unit during World War II, which the German broadcaster had allegedly portrayed as 'anti-Semitic and nationalistic and as having collaborated with the Nazis in the Holocaust', and (2) an association bringing together members of that unit.

After two decisions against the defendants (to varying degrees), the Polish Supreme Court had submitted two questions relating to the international jurisdiction of the Polish courts.

Centre-of-Interests Jurisdiction

First, the court wanted to know whether the claimants could rely on Art 7(2) Brussels Ia in the interpretation developed by the CJEU in *eDate* to establish the (full) jurisdiction of the Polish courts as the courts of the claimants' centre of interests, even with regard to the content broadcasted on television and even though neither of the claimants had been named in the broadcast.

Dismissing the claimants' argument that any distinction between online content

and a TV broadcast would be largely meaningless given how much the lines between the two formats have blurred, the CJEU reaffirms the narrow scope of the centre of interests criterion (see already *eDate*, [48]), which remains only available with regard to online content:

[44] That said, the television broadcast of audiovisual content in several Member States must be distinguished from the dissemination of such content on the internet. The placing online of content on a website is to be distinguished, generally, from the regionalised distribution of media in that it is intended, in principle, to ensure the ubiquity of that content. That content may be consulted instantly by an unlimited number of users throughout the world, irrespective of any intention on the part of the person who placed it as regards its consultation beyond that person's Member State of establishment and outside of that person's control [...].

[45] Those considerations do not apply to the broadcasting of audiovisual content on television. Such broadcasting is not, in principle, available instantly and worldwide, but is regionalised, limited to the geographical area in which the television signal is received.

Regarding the fact that neither of the two claimants had been mentioned by name in the broadcast in question, which could be seen as falling short of the requirement for centre-of-interests jurisdiction developed in *Mittelbayrischer Verlag*, namely that the content complained of must contain 'objective and verifiable elements which make it possible to identify, directly or indirectly, [the claimant] as an individual', the CJEU draws a distinction between the two claimants. The first claimant did not pass the threshold of identifiability as the broadcast

[54] [...] does not make it possible to identify individually the applicants in the main proceedings inasmuch as it is a work of fiction which recounts the conduct of a group of soldiers – members of unit X – without it being possible to ascertain the true identity of the members depicted in the series.

The second claimant, however, whose members were all part of that group of soldiers, passed the test and could thus bring a claim at its centre of interests, as far as the online publication of the series is concerned.

Mosaic Jurisdiction

As a second question, the referring court also inquired (again – see also Cases C-194/16 *Bolagsupplysningen* and C-251/20 *Gtflix Tv*) about the extent to which jurisdiction could be based on the mosaic approach to Art. 7(2) Brussels Ia. Indeed, for all claims of the first claimant as well as for the claims of the second claimant regarding the TV broadcast, jurisdiction could only be based on the fact that the content had been made available in Poland, which traditionally only creates jurisdiction for a proportion of the overall harm. In *Bolagsupplysningen*, the CJEU had essentially restricted this type of jurisdiction to damage awards.

In *Idziski*, the CJEU simply reiterates its earlier decisions (see [63]). In particular, it confirms that mosaic jurisdiction remains unavailable for any kind of injunction requiring the defendant to display specific information before the series (both online and on TV) – a remedy, of course, with limited chance of being enforced in Germany anyway (for reasons explained here).

Conclusion

Ultimately, the CJEU simply reaffirms its previous case law. While any *revirement de jurisprudence* in that area would have been highly surprising, especially after the decision in *Gtflix Tv*, the decision may well be seen as another indication that the area is ripe for legal reform.